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April 15, 2025

Franklin Conservation Commission
355 East Central Street
Franklin, MA 02038
Attn: Breeka Li Goodlander, Agent

RE: *Comments from Beta Group 124 & 126 Grove Street MassDEP File No. 159-1305 Notice of Intent Dated April 11, 2025*

Dear Members of the Commission:

On behalf of our client, Key Boston, Inc., Guerriere & Halnon, Inc. has prepared the following information to address comments contained in the letter from BETA Group.

BETA's findings, comments and recommendations are shown in *italics* followed by our response in **bold**.

PLAN AND GENERAL COMMENTS

A2. *The following plan elements are required:*

- a. *Individual trees/shrubs with a diameter greater than 1" proposed for removal should be shown on the Plans per Bylaw Regulation Section 7.18.31.6. It is BETA's understanding that the Commission generally increases the size threshold for tree location based on the Project and therefore defers to the Commission on this matter.*
- b. *The IVWs located onsite should be labeled as IVWs rather than BVWs and the 100-foot Buffer Zone to Resource Areas should be depicted on Page 3 of the plan set.*

G&H: See Goddard Consulting variance request letter dated March 31, 2025. The applicant defers to the Commission.

BETA2: BETA defers to the Commission on the Applicant's request to not perform the tree survey.

G.H. Response: No further comment.

- A4. *The Applicant should confirm whether a 401 Water Quality Certification is required from MassDEP for the proposed fill of IVWs exceeding 5,000 square feet. Although not jurisdictional under the Act as BVW, these IVWs may be considered "Waters of the Commonwealth" pursuant to the Massachusetts Clean Waters Act. It is recommended that the Commission include a Special*

Condition requiring the Applicant to either provide a copy of the 401 Water Quality Certification prior to construction or furnish written confirmation from MassDEP that this is not required.

GC: The IVWs that are proposed to be filled are permitted stormwater basins and would not be considered wetlands under the ACT and therefore a 401-water quality certification is not necessary. This is documented in the attached Goddard Consulting reports dated June 7, 2023 and March 2, 2023.

BETA2: Jurisdiction under the 401 Water Quality Certification is directly linked to the federal Clean Water Act by statute and not the Massachusetts Wetlands Protection Act. Further, 314 CMR 9.00 explicitly references impacts to IVWs as a permitting threshold. BETA recommends that the Applicant confirm with MassDEP whether a 401 WQC is required for the Project prior to construction. If the IVWs are not considered federally jurisdictional wetlands, it is unlikely that a 401 WQC would be required.

G.H. Response: See response prepared by Goddard Consulting dated 4/15/25.

Wetland Resource Areas and Regulatory Review

BETA has completed a regulatory review of the submitted documents and plans, focusing on compliance with the regulations set forth in the Act and the Bylaw. While BETA conducted a Site visit to review the proposed work in the field, Resource Areas at the Site were previously approved by the above-referenced ORAD (MassDEP File No. 159-1290) and were therefore not reviewed.

The NOI application includes narrative information describing the Project, and the proposed impacts within Buffer Zone and the locally protected IVWs have generally been quantified and described. Proposed mitigation measures include the use of erosion controls, application of loam and seed along disturbed areas, Buffer Zone plantings, and the establishment of a 15,729-sf wetland replication area. However, the NOI requires further information regarding construction details, plan information, and compliance with the Bylaw. While the construction- and mitigation-related comments in this letter are provided for the proposed design, it is recommended that the Applicant discuss the extent of permissible IVW fill with the Conservation Commission (Comment W15), as any requirement to further minimize or avoid the proposed impacts to the IVWs at the Site will significantly impact the proposed stormwater management system design and the overall Site development. The Applicant should also discuss options for stormwater management at Basin #2, as either additional IVW impacts or additional treatment infrastructure would be required to comply with the Massachusetts Stormwater Standards at this discharge point.

BETA2: The Applicant has provided significant Project revisions in an effort to demonstrate compliance with the Bylaw and the Massachusetts Stormwater Management Standards. The majority of BETA's original comments have been addressed, and where appropriate, BETA has recommended Special Conditions to facilitate the issuance of an Order of Conditions. However, BETA has provided further comments on the proposed wetland replication and Buffer Zone restoration that should be addressed by the Applicant to support compliance with the Bylaw and to demonstrate the constructability of the replication area.

CONSTRUCTION COMMENTS

W1. The Project, as currently depicted, will disturb more than one (1) acre of land; therefore, a Notice of Intent (NOI) must be submitted to the Environmental Protection Agency (EPA) under the Construction General Permit (CGP) and a Stormwater Pollution Prevention Plan (SWPPP) must be prepared. The Commission could consider a Special Condition within the Order of Conditions that requires the submission of the SWPPP for review and approval prior to the commencement of work.

GC: Land Thresholds are as follows: 25 acres of land disturbance or the creation of 5 acres of impervious area, which are not applicable to this project. Alteration of 5,000 sf of IVW. The IVW

proposed to be impacted in this project are part of permitted stormwater management systems and would not be classified as IVWs under Army Corps and as result MEPA thresholds are not triggered.

BETA2: BETA's original comment refers to the EPA NPDES CGP coverage, not the EMPA process.

The comment regarding the recommended Special Condition remains.

G.H. Response: G&H does not object to the proposed Special Condition.

- W2. *A significant volume of standing water was present in Basin #3 at the time of BETA's Site visit. The Applicant should provide a plan for the drawdown and discharge of standing water prior to excavation for the new building addition foundation.*

G&H: A dewatering plan for Basin #3 will be provided prior to the start of construction. We request this be a condition of approval.

BETA2: Understood. BETA defers to the Commission on the inclusion of this Special Condition.

G.H. Response: No further comment.

- W4. *It is anticipated that the construction of the retaining wall along Basin #2 will require dewatering and water controls due to significant standing water observed within Basin #2 during the Site visit. These should be depicted on the plans to establish a realistic work footprint and IVW impacts should be revised as appropriate. The Applicant should also provide the Commission with a draft dewatering and water control plan for this work.*

G&H: A 10' wide work area is depicted at the base of the proposed retaining wall to allow for the construction of its foundation. We anticipate the majority of wall construction work will occur on the north side, as the wall is constructed and backfilled in lifts. The IVW within the 10' work area will be protected by swamp mats and restored after wall construction is complete. A dewatering plan for Basin #2 will be provided prior to the start of construction. We request this be a condition of approval.

BETA2: Comment addressed. As previously noted, BETA defers to the Commission on the inclusion of a Special Conditions for the submission of a water control plan.

G.H. Response: No further comment.

- W7. *Invasive species including autumn olive (*Elaeagnus umbellata*), bittersweet (*Celastrus orbiculatus*), and multiflora rose (*Rosa multiflora*) are present throughout the area proposed for construction, particularly around Basin #3. The Applicant should provide a plan detailing how material containing invasive species plant matter will be managed to ensure no further spread occurs as a result of this Project.*

GC: Invasive species shall be disposed of, off site at a proper landfill facility.

BETA2: BETA defers to the Commission on whether a formal invasive species management plan should be provided prior to construction.

G.H. Response: No further comment.

MITIGATION COMMENTS

- W10. *The Applicant should provide information regarding the intended access to the replication area within Buffer Zone and indicate to what extent vegetative clearing and removal of existing stonewalls will be required. The feasibility of this access should also be confirmed, as it appears that an excavator will only be able to excavate the upland island within the existing BVW from the uplands to the south. If additional temporary and/or impacts are required to access this area and conduct the replication earthwork (i.e., impacts to the thin strip of existing BVW between the 2*

portions of replication area), then these should be documented and quantified on the plans. The narrative suggests that impacts within the existing BVW will be required for access, but this is not shown on the plans nor are BMPs, such as swamp mats, proposed.

G&H: Additional callouts have been added to sheet 14 to provide the additional information requested, including impact mitigation and restoration within the temporary access path and wetland crossing. The precise access path route will be adjusted in the field to avoid disturbance to existing trees and the stone walls will be reconstructed after replication is complete. The temporary wetland crossing will be protected with swamp mats and restored in accordance with the replication plan prepared by Goddard Consulting.

BETA2: The replication plans should depict proposed grading to ensure that appropriate hydrology will be achieved while also establishing a realistic limit of work to tie back into existing grades. The necessary limit of clearing for the required grading and machinery access should be depicted, and any portions of Buffer Zone cleared for this work should be restored.

BETA recommends that the Commission include a Special Condition requiring the Applicant to conduct a Site walk with the Agent prior to construction to review the access path and make minor adjustments as appropriate to save mature vegetation. In addition, it is recommended that the layout of the replication area be finalized during this Site walk, as the "finger-like projections" are currently shown at right angles and should instead be more naturally curved to integrate with the surrounding topography.

G.H. Response: The Applicant agrees that a site walk with the Agent prior to construction is the most appropriate way to finalize the access path, restoration measures, and wetland replication shape. Because the final access path route and wetland replication layout will not be finalized until this site walk, we request that this comment be incorporated as a special condition, including the request to provide proposed grading within wetland replication areas, revised limits of clearing, and buffer zone restoration measures, which are dependent on the final layout. After the walk with the agent determines the final replication configuration, G&H will revise the replication plan to depict the final layout, grading, limit of work, and buffer zone restoration measures as agreed upon in the field.

WPA PERFORMANCE STANDARDS COMMENTS

W15. *The Applicant should submit a Variance request for work proposed within the 0-25-foot and 25- 50-foot Buffer Zones. BETA defers to the Commission on the issuance of this waiver.*

Per Section 7.13 of the Bylaw Regulations, the Applicant is required to provide an Alternatives Analysis, as the Project requires a Variance request and proposes wetland fill. As previously noted in this letter, the Commission's stance on the extent of permissible alteration to locally jurisdictional IVW is critical to the proposed Site design. Specifically, it is recommended that the following be addressed in the Alternatives Analysis and considered by the Commission in their review of the Project:

- The Applicant is required to Avoid / Minimize / Mitigate impacts to Resource Areas (in that order) when designing a Project. The Alternatives Analysis should assess the viability of proposing no wetland impacts.*
- The Applicant should demonstrate that impacts, if unavoidable, have been minimized to the extent feasible. Specifically, impacts to the IVW within Basin #2 should be reviewed to determine if they can be reduced further.*
- Alternatives should also be assessed in light of stormwater management requirements at the*

Site. As noted in BETA's December 5, 2024 stormwater peer review letter, the uplands within Basin #2 are being used to claim treatment credits via infiltration; however, infiltration rates within this area appear to be poor and further analysis of soils has not been performed. To meet the Massachusetts Stormwater Standards, the Applicant would be required to either provide full treatment prior to discharge to Basin #2 or impact the entirety of the IVW at this location to reconstruct Basin #2 into a true infiltration basin that provides the required treatment levels. While this alternative would require additional IVW impacts, these impacts could be mitigated through the construction of additional wetland replication areas.

GC: See attached variance requests.

BETA2: BETA defers to the Commission on the acceptance of the Variance requests. Specifically, the Applicant cannot provide replication of the 25-foot No Disturb Zone due to Site constraints, and some level of IVW fill is required to construct the Project while meeting the Massachusetts Stormwater Management Standards.

G.H. Response: No further comment.

W20. The Applicant should provide a narrative with information on the steps taken to mitigate for unavoidable impacts for work that is proposed within the Buffer Zones (Bylaw Regulation Section 7.11.2). Some Buffer Zone plantings are proposed within developed portions of the Site; however, additional areas should be considered for restoration plantings (i.e., the access to the wetland replication area).

G&H: See Goddard Consulting variance request letter dated March 31, 2025. The applicant defers to the Commission.

BETA2: As noted in the BETA2 response to Comment W10, the Applicant should, at a minimum, provide Buffer Zone plantings within areas temporarily disturbed for replication area work. Comment remains.

G.H. Response: A note has been added to sheet 12 of the revised plan set, requiring restoration plantings within buffer zone areas disturbed in association with the proposed wetland replication work, and requiring these plantings to be selected from the Franklin BDPG native species list. Because the replication and access path layout will not be finalized until the site walk with the Agent (see comment W10), the note specifies the type and location of these plantings will be determined during that site walk.

We believe these responses have addressed the concerns expressed by BETA Group from their review letter. Should you have any further questions or concerns, please contact our office.

Sincerely,
Guerriere & Halnon, Inc.



Mike Hassett
Project Manager